

**CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT**

July 19, 2012 Meeting

Agenda Item 4

SUBJECT: Coast Point (previously known as China Palace) Use Permit Review (PA2010-082)

SITE LOCATION: 2800 West Coast Highway

- Use Permit No. UP2010-015

APPLICANT: Coast Point (previously known as China Palace)

PLANNER: Makana Nova, Assistant Planner
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PROJECT SUMMARY

On November 23, 2010, the City Council adopted Resolution No. 2010-131 (Attachment No. PC 1) approving Use Permit No. UP2010-015 for live entertainment and dancing at the Coast Point (previously known as China Palace) restaurant. Condition No. 1 requires that the Planning Commission review the operation after one year to determine whether the applicant has complied with the conditions of approval.

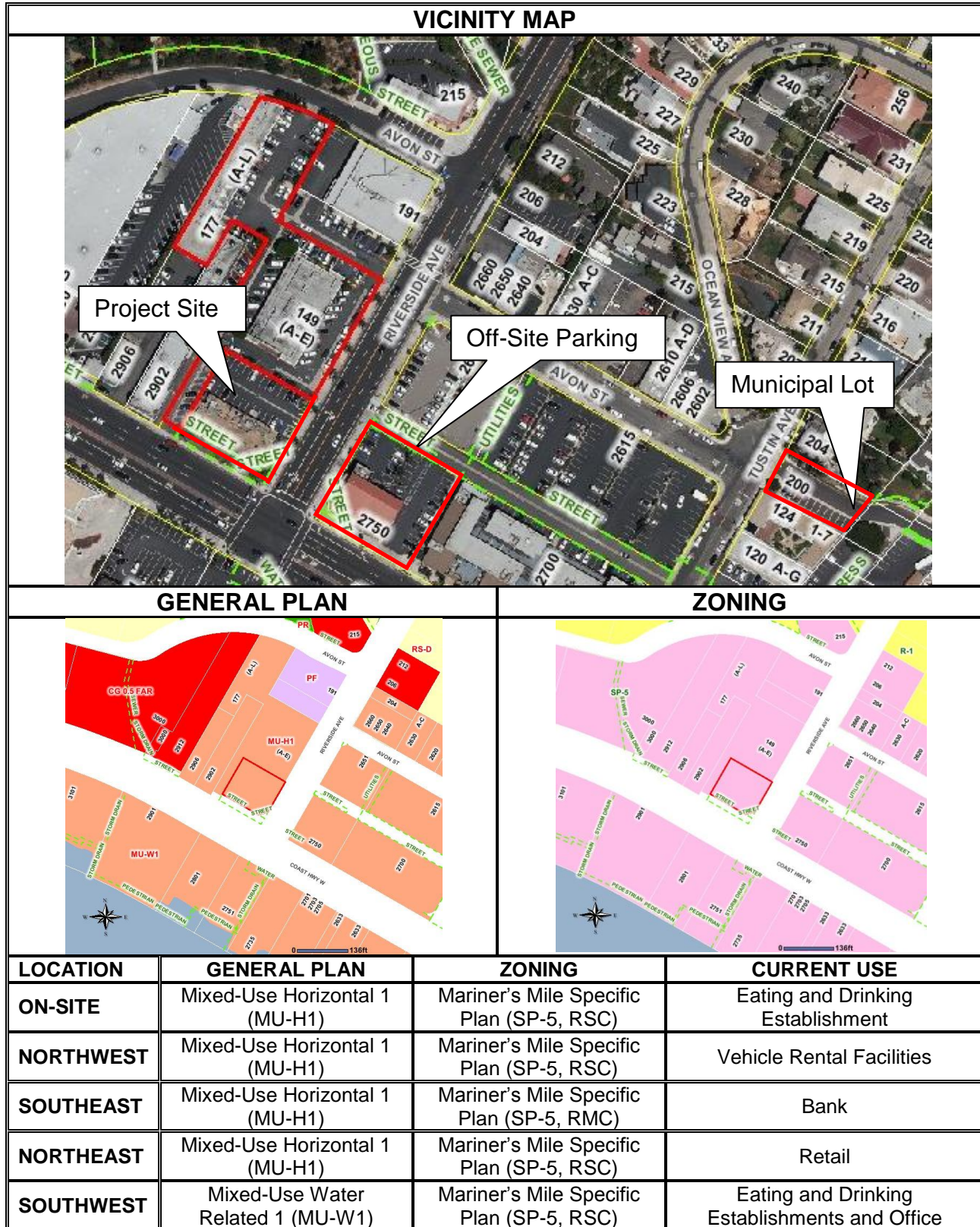
RECOMMENDED ACTION

- 1) Receive public comments; and
- 2) Receive and file.

INTRODUCTION

Project Setting

The project site is located at the northwest corner of West Coast Highway and Riverside Avenue. The designated off-site parking lot is located at the Wells Fargo Bank building across Riverside Avenue at 2750 West Coast Highway.



Background

The applicant entered into a lease with the property owner of the project site in 1983 to construct the existing eating and drinking establishment, Coast Point (China Palace). Two discretionary applications were approved for the project site: Use Permit No. UP3095 to allow the establishment of an eating and drinking establishment with on-sale alcoholic beverages and Variance No. VA1112. The approvals waived 13 of the required on-site parking spaces in exchange for the purchase of 13 annual parking passes and use of the Avon Street Municipal Lot at 200 Tustin Avenue by employees of the restaurant.

In January of 2010, Modification Permit No. MD2009-029 and Accessory Outdoor Dining Permit No. OD2009-003 (PA2009-113) were approved to allow the construction of a combination block wall and glass screen-wall necessary to permit a new outdoor dining area.

On November 23, 2010, the City Council authorized live entertainment and dancing at the restaurant by approving Use Permit No. UP2010-015 (PA2010-082). Several conditions of approval were included to mitigate potential negative effects to the community. Condition No. 1 of City Council Resolution No. 2010-131 (Attachment No. PC 1) requires a one-year review to ensure that the restaurant operator complied with the conditions of approval. The one-year review allowed for the assessment of parking and operation after the live entertainment and dancing became operational. The Planning Commission and City Council Minutes, as well as the approved Parking Management Plan, are included as Attachment Nos. PC 5, 6, and 7.

Following approval of the use permit for live entertainment and dancing, the applicant changed the name of the restaurant from China Palace to Coast Point.

DISCUSSION

Based on the review of the conditions of approval and feedback from the applicant, staff believes the establishment operates in conformance with the conditions of approval and the parking management plan. Staff has observed that the restaurant is not particularly busy in the daytime hours.

The establishment's hours of operation are currently from 7:00 a.m. to 2:00 a.m., daily with the hours of operation for the outdoor dining area limited from 7:00 a.m. to 12:00 midnight when live entertainment is provided. Live entertainment and dancing is permitted from 6:00 p.m. to 1:00 a.m., daily. The 400 square foot live entertainment and dance area was included as a revision to the building permit for the outdoor dining patio under Plan Check No. 0316-2010.

Conditions of Approval

Staff has reviewed the conditions required with the approval of Use Permit No. UP2010-015. The applicant has worked with the Planning Division to achieve full compliance. The following conditions of approval are highlighted on the basis that they directly relate to the operations of the establishment:

- Condition No. 3-The applicant obtained a live entertainment permit on August 15, 2011.
- Condition Nos. 8 and 52-The applicant revised the occupancy calculations on the building plans to account for the live entertainment area and dance floor.
- Condition No. 10-The applicant provided a security plan on March 5, 2012.
- Condition No. 64-The applicant provided a letter from the branch manager of Wells Fargo indicating that their parking was available for the subject business after 6:00 p.m.
- Condition No. 67- The applicant demonstrated the ability to offer valet service when parking demand was high. The Community Development Director determined that requiring valet nightly was not necessary because demand is not high enough.
- Condition No. 73-The applicant purchased 13 annual parking passes for 2012.
- Condition No. 75-The applicant has removed take-out signage from the parking areas.

For a full analysis of the operational conditions of approval that required the applicant's action under this review, please refer to Attachment No. PC 2.

Police Department Review

The Police Department has reviewed the calls for service and complaints involving the Coast Point (China Palace) (Attachment No. PC 3) and concluded that were 11 calls for service between December 1, 2010 and July 1, 2012. Three calls were related to fights or assaults, two calls concerned use permit violations which were classified as "unfounded" since no violations were observed by officers dispatched, and five calls were miscellaneous calls for lost property or "keep the peace". The Police Department noted in their review that there are no objections to the operations under Use Permit No. UP2010-005.

The Police Department also reviewed a printed statement submitted by the applicant and verified that food sales constituted 60 percent of gross sales, in accordance with Condition of Approval No. 20. The Police Department will review the sales receipts and records of the applicant in six months to ensure records are maintained in accordance with the condition. The Police Department does not object to the continuation of the restaurant under the current conditions of approval or anticipate the need for further reviews by the Planning Commission.

Code Enforcement Review

The Code Enforcement Division reported (Attachment No. PC 4) that a violation regarding banners was issued to the Coast Point on December 1, 2011. No further violations have been observed by or reported to Code Enforcement since this citation was issued.

Conclusion

Staff believes the applicant has complied with all required conditions of approval and the operation, as approved, has not proven to be detrimental to the surrounding neighborhood. Therefore, no changes to the conditions of approval or subsequent reviews are necessary.

Alternatives

Should the Planning Commission choose to make changes to the Use Permit, staff may draft a resolution for review at a future meeting.

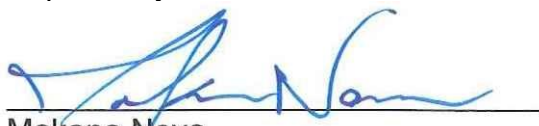
Environmental Review

This Use Permit review is exempt from environmental review pursuant to Section 15321 (Class 21 - Enforcement Actions by Regulatory Agencies) of the Guidelines for Implementation of the California Environmental Quality Act. This section exempts actions by regulatory agencies to enforce or revoke a lease, permit, license, certificate, or other entitlement for use issued, adopted, or prescribed by the regulatory agency or enforcement of a law, general rule, standard, or objective, administered or adopted by the regulatory agency.


Public Notice

Notice of this review was published in the Daily Pilot, mailed to property owners within 300 feet of the property and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. Additionally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the City website.

Prepared by:


Makana Nova
Assistant Planner

Submitted by:


Brenda Wisneski, AICP, Deputy Director

ATTACHMENTS

- PC 1 City Council Resolution No. 2010-131
- PC 2 Analysis of Compliance with Conditions of Approval
- PC 3 Police Department Review
- PC 4 Code Enforcement Review
- PC 5 Planning Commission Minutes
- PC 6 City Council Minutes
- PC 7 Parking Management Plan
- PC 8 Project Plans

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Attachment No. PC 1

City Council Resolution No. 2010-131

RESOLUTION NO. 2010-131

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH APPROVING USE PERMIT NO. UP2010-015 TO ALLOW LIVE ENTERTAINMENT AND DANCING WITHIN AN EXISTING RESTAURANT LOCATED AT 2800 WEST COAST HIGHWAY IN CONJUNCTION WITH A PARKING MANAGEMENT PROGRAM FOR THE PROVISION OF OFF-SITE PARKING LOCATED AT 2750 WEST COAST HIGHWAY (PA2010-082).

THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Yu-Ter Mau, representing China Palace, lessee of property located at 2800 West Coast Highway, legally described as the southeasterly 129.15-foot by 130-foot portion of Lot F, Tract No. 919, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 29, Pages 31 to 34, inclusive of miscellaneous maps, in the office of the county recorder of the County of Orange.
2. The applicant proposed a new use permit to allow live entertainment and dancing from 6:00 p.m. to 2:00 a.m., daily, within an existing full-service eating and drinking establishment that has a Type 47 (On Sale General-Eating Place) Alcoholic Beverage Control license. The proposed dance floor is 200 square feet in area and is located within the existing 2,129-square-foot net public area. The application also includes a Parking Management Program for 30 off-street parking spaces.
3. The subject property is located within the Retail and Service Commercial land sub-area of the Mariner's Mile Specific Plan (SP-5) Zoning District and the General Plan Land Use Element category is Mixed-Use Horizontal 1 (MU-H1).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Horizontal (MU-H).
5. At a noticed public hearing held on August 5, 2010, the Planning Commission considered the application, plans, and written and oral evidence presented at this meeting, and approved Use Permit No. UP2010-015 based on the findings and conditions of approval in Planning Commission Resolution No. 1818.
6. On August 17, 2010, the Planning Commission's decision to approve Use Permit No. UP2010-015 was appealed by the City Council by Council Member Rosansky. The appeal was filed to review the authorized hours for late night activities and parking.
7. The City Council held a public hearing on September 28, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. The City Council considered evidence, both written and oral presented at this meeting, and affirmed and upheld the Planning Commission's decision and approved Use Permit No. UP2010-015.

8. Pursuant to Section 20.95.060.C, the public hearing was conducted "de novo," meaning that it is a new hearing and the decision being appealed has no force or effect as of the date the call for review was filed.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
2. The project consists of minimal change to the physical characteristics of the existing structure. The conversion of the eating and drinking establishment to allow for the addition of live entertainment includes only minor interior modifications to the existing structure for the installation of a new dance floor.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.91.035.A of the Newport Beach Municipal Code, the City Council Finds as follows:

Finding:

- A. *That the proposed location of the use is in accord with the objectives of the Zoning Code and the purpose of the district in which the site is located.*

Facts in Support of Finding:

- A-1. The project is located in the SP-5 (Mariner's Mile Specific Plan) Zoning District within the Retail Service Commercial Sub-Area. The Retail and Service Commercial Sub-Area encourages the continuation of "marine-oriented" uses and the "marine" theme or character of the area; encourages mutually supportive businesses, a continuity of shopping and pedestrian orientation, and prohibits uses, which would interrupt this continuity; and minimizes the number of curb cuts on Coast Highway. The eating and drinking establishment with existing on-sale alcoholic beverage service is a mutually supportive commercial use that serves visitors, residents, and employees in the area. Eating and drinking establishments are a permitted use in this land use district with the approval of a use permit. Therefore, the eating and drinking establishment with on-sale alcohol service and live entertainment is consistent with the purposes of the Mariner's Mile Specific Plan for the Retail Service Commercial Sub-Area.
- A-2. The location of the eating and drinking establishment is located within Mariner's Mile is surrounded by land uses that are dominated by retail commercial, professional office and visitor serving uses. Restaurant uses with live entertainment can be expected to be found in this and similar locations and are complimentary to the surrounding commercial uses.

- A-3. The project site is located in an area designated for mixed-use development, but not located in close proximity to residential districts, day care centers, schools, park and recreation facilities or places of religious assembly.
- A-4. The project has been conditioned in such a manner to require strict adherence to safety and noise regulations. The project design and operational characteristics, as conditioned, meets the intent of the Zoning Code.

Finding:

- B. *That the proposed location of the Use Permit and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.*

Facts in Support of Finding:

- B-1. The Land Use Element of the General Plan designates the site for Mixed Use Horizontal 1 (MU-H1). Properties designated MU-H1 on the inland side of Coast Highway in the Mariners' Mile Corridor are intended for marine-related and highway-oriented general commercial uses in accordance with CM and CG designations. The existing eating and drinking establishment and proposed live entertainment is consistent with this land use designation.
- B-2. The existing eating and drinking establishment is located in a commercially designated area and is consistent with the land uses intended for properties fronting West Coast Highway within the Mariner's Mile corridor. The updated General Plan, adopted in 2006, provides opportunities for the integration of residential units on the inland parcels between Riverside Avenue and Tustin Avenue. Due to the potential addition of residential units in the vicinity of the project site, the project has been conditioned as reflected in the draft resolution (Attachment No. PC 1) to regulate parking, trash, and site maintenance.
- B-3. The use authorized by this permit is not a bar, tavern, cocktail lounge, or nightclub. The City has experienced land use conflicts, nuisance issues, and issues requiring police intervention with these types of activities in the past. Prohibition of these uses or activities will minimize potential land use conflicts, nuisances and police intervention. The Police Department has provided Condition Nos. 3, 12, 15 through 20, 22 through 25, and 52 to ensure the operation is maintained as proposed by the applicant.
- B-4. There have been no alcohol related arrests for the subject property from July 1, 2009 through July 1, 2010. Although the number of alcohol licenses within the reporting district and adjacent reporting districts is higher than the County-wide average and

adjacent districts, this level is not significantly high given the nature of the land uses in the district. The percentage of alcohol-related arrests in the police-reporting district in which the project is proposed is lower than the percentage citywide. The preceding information supports the case that the subject establishment will not become an undo burden upon police services with the addition of live entertainment.

- B-5. Both the General Plan and the CLUP set a development intensity limit of 0.5 floor area to land area ratio (FAR) for non-residential development. The total square footage of 5,347 gross square feet for the project site results in an FAR of 0.32. The proposed project complies with the maximum FAR permitted by the General Plan.

Finding:

- C. *That the proposed use will comply with the provisions of this Zoning Code, including any specific condition required for the proposed use in the district in which it would be located.*

Facts in Support of Finding:

- C-1. The proposed use complies with the development standards for the SP-5 (Mariner's Mile Specific Plan) District. The existing full-service eating and drinking establishment with proposed live entertainment will not be detrimental to the site or to the community based upon the proposed conditions of approval. The proposed conditions of approval ensure that all conflicts with surrounding land uses are eliminated or minimized to the greatest extent possible.
- C-2. The hours of operation have been conditioned to limit live entertainment at the establishment from 6:00 p.m. to 1:00 a.m. The hours of operation for the establishment will be reduced to 7:00 a.m. to 2:00 a.m., daily.
- C-3. The approved Parking Management Program will ensure adequate access and utilization of the parking areas provided both on and off-site for the subject establishment.

SECTION 4. DECISION.

NOW THEREFORE, the City Council of the City of Newport Beach, California, hereby resolves as follows:

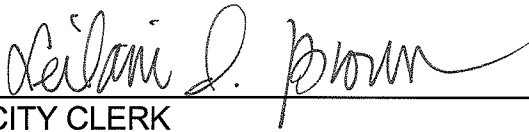
SECTION 1: The City Council of the City of Newport Beach does hereby deny the appeal and upholds and affirms the decision of the Planning Commission to approve Use Permit No. UP2010-015 subject to the conditions contained in Exhibit "A," which is attached hereto and incorporated by reference.

SECTION 2: This resolution was approved and adopted at a regular meeting of the City Council of the City of Newport Beach, held on the 23rd day of November, 2010:



MAYOR

ATTEST:



CITY CLERK



EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

PLANNING

1. *Use Permit No. UP2010-015 shall be subject to a one year review before the Planning Commission after the date of approval.*
2. *Prior to issuance of building permits, the applicant shall obtain a determination, in writing, from the Coastal Commission that the project as proposed is not development under the California Coastal Act or obtain Coastal Commission approval of the parcel map.*
3. *There shall be no live entertainment or dancing allowed on the premises without first obtaining a Live Entertainment permit from the City. Prior to the issuance of building permits for the change of occupancy, the applicant shall obtain a Live Entertainment Permit from the Revenue Department.*
4. *Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.*
5. *The hours of operation for the eating and drinking establishment shall be limited from 7:00 a.m. to 2:00 a.m., daily. The hours of operation for the outdoor dining area shall be limited from 7:00 a.m. to 12:00 midnight when live entertainment is provided.*
6. *Live entertainment shall be permitted at the subject property from 6:00 p.m. to 1:00 a.m.*
7. *Dancing is allowed for the hours of live entertainment.*
8. *The area provided for live entertainment and dancing shall not exceed 400 square feet.*
9. *The applicant shall provide licensed security personnel while offering live entertainment.*
10. *A comprehensive security plan for the permitted uses shall be submitted to the Newport Beach Police Department for review and approval.*
11. *All owner's, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.*

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12. *Approval does not permit China Palace to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Municipal Code, unless the Planning Commission first approves a use permit.*
 13. *Live entertainment shall be as defined in the Municipal Code.*
 14. *The live entertainment use shall be permitted within the interior dining rooms only. Live entertainment provided for restaurant patrons shall remain an ancillary use intended to enhance the dining experience within the restaurant. The live entertainment area shall be physically identified within the restaurant area.*
 15. *Food service from the regular menu must be available to patrons up to thirty minutes before the scheduled closing time.*
 16. *No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.*
 17. *No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.*
 18. *VIP passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order or sale of drinks is prohibited.*
 19. *The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
 20. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.*
 21. *A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.*
 22. *There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time which include the service of alcoholic beverages, without first obtaining an approved Special Events Permit issued by the City of Newport Beach.*

23. *The use of private (enclosed) "VIP" rooms or any other temporary permanent enclosures separate from public areas are prohibited.*
24. *When offering live entertainment, all doors and windows shall remain closed except for the normal ingress/egress doors. The doors and windows from the primary dining room to the outdoor dining room shall be closed at all times during the hours of live entertainment other than for server access.*
25. *Live entertainment shall be permitted only within the confines of the main building. No outside paging system shall be utilized in conjunction with this establishment. No amplified music or entertainment is permitted in the outdoor dining area, sidewalk, or adjacent areas. No outside paging system, loudspeaker or other noise generating device shall be utilized in conjunction with this outdoor dining area. No music will be piped into any sidewalk or adjacent areas.*
26. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below per the current Zoning Code for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
Location	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

27. All proposed signs shall be in conformance with the provisions of Chapter 20.67 of the Newport Beach Municipal Code or an approved Comprehensive Sign Program for the project site.
28. *The landscape plan for the restaurant site shall be subject to the review and approval of the Parks, Beaches, and Recreation Department, the Public Works Department, and the Planning Department. [COA UP3095]*
29. *Landscaping shall be regularly maintained free of weeds and debris. All vegetation shall be regularly trimmed and kept in healthy condition. [COA UP3095]*
30. *Final design of the project shall provide for adequate security lighting in public areas and the off-site parking areas. [COA UP3095]*

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31. *The project lighting system shall be designed and maintained in such a manner so as to conceal the light source and to minimize light spillage and glare to the adjacent area. The plans shall be prepared and signed by a licensed electrical engineer, with a letter from the engineer stating that, in his opinion, this requirement has been met. [COA UP3095]*
 32. *All trash areas, mechanical equipment, vents, and other service equipment shall be shielded or screened by architectural design from public streets and adjoining properties. [COA UP3095]*
 33. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
 34. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
 35. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
 36. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
 37. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this Use Permit.
 38. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
 39. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
 40. Use Permit No. UP2010-0015 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

41. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
42. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
43. This Use Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
44. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
45. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
46. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
47. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the China Palace Use Permit for Live Entertainment including, but not limited to, Use Permit No. UP2010-015 (PA2010-082). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

48. *That all access to the building be approved by the Fire Department. [COA UP3095]*

49. *That all on-site fire protections (hydrants and Fire Department connections) shall be approved by the Fire and Public Works Department. [COA UP3095]*
50. *That prior to the issuance of building permits, the Fire Department shall review the proposed plans and may require automatic fire sprinkler protection. [COA UP3095]*
51. *The landscape plan shall place heavy emphasis on fire-retardant vegetation. [COA UP3095]*

Building Department Conditions

52. *Strict adherence to maximum occupancy limits is required. A building permit is required to allow the change in occupancy. Plan Check No. 0316-2010 for tenant improvements to the subject property shall be revised to reflect the new calculated occupant load to accommodate live entertainment. The plans shall calculate the occupant load, including all occupied areas, patio, and dance floor based on the CBC Chapter 4. The plans shall verify that the existing number of plumbing fixtures complies with Table CBC 4-1 (Restaurants). All plans and work must comply with the California Building Code.*
53. *The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code.*
54. *Approval from the Orange County Health Department is required prior to the issuance of a building permit.*
55. *The construction plans must meet all applicable State Disabilities Access requirements. Handicapped parking shall be provided in a manner and quantity approved by the City Traffic Engineer. The handicapped parking shall be available for self-parking. [COA UP3095]*
56. *Fugitive dust emissions during demolition and construction shall be minimized by watering the site for dust control, containing excavated soil on-site until it is hauled away, and periodically washing adjacent streets to remove accumulated materials. [COA UP3095]*
57. *A washout area for the restaurant trash containers shall be provided in such a way as to assure direct drainage into the sewer system and not into the Bay or the storm drains. [COA UP3095]*
58. *Grease interceptors shall be installed on all fixtures in the restaurant facilities where grease may be introduced into the drainage systems in accordance with the provision of the Uniform Plumbing Code. [COA UP3095]*
59. *Kitchen exhaust fans shall be designed to control odors and smoke. [COA UP3095]*

60. *Final design of the project shall provide for the incorporation of water-saving devices for project lavatories and other water-using facilities. [COA UP3095]*

Public Works Conditions

61. *A minimum of one parking space per 50 square feet of "net public area" shall be provided for the restaurant use from 11:00 a.m. until 6:00 p.m. and that a maximum of 13 of the required restaurant parking spaces may be located in the Mariner's Mile Municipal parking lot. [COA UP3095]*
62. *A total of 30 parking spaces shall be provided on-site for the full-service eating and drinking establishment during operating hours from 6:00 p.m. to closing.*
63. *Delete*
64. *As a condition precedent to the Applicant conducting operations under Use Permit No. UP2010-015(PA2010-082), the Applicant shall obtain the Planning Director's approval of a written agreement between the Applicant (as lessee) and the owner of the property located at 2750 West Coast Highway (as lessors) providing parking for eighteen (18) cars from 6:00 p.m. to closing. If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment and dancing rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property.*
65. *Valet parking is not permitted at 2750 West Coast Highway. If valet parking is proposed at the off-site parking location, the applicant shall submit a new valet operation plan.*
66. *Six compact parking spaces shall be permitted within the on-site parking area. [COA UP3095]*
67. *Valet parking shall be required on-site during operating hours from 11:00 a.m. to 2:00 a.m. as long as the tandem configuration of parking (parallel parking in the drive aisle) remains on-site.*
68. *The valet operation shall not impact the public right-of-way. Vehicle staging, drop off and pick-up shall occur on-site only and the valet pick-up and delivery station shall not be located in the public-right-of-way. [COA UP3095]*
69. *The valet parking service shall not preclude the use of a portion of the independently accessible spaces by patrons wishing to park their own car. The self-park spaces shall be clearly designated. [COA UP3095]*

70. *The applicant shall discourage patrons from crossing Riverside Avenue at mid-block locations and direct patrons to use to utilize nearby crosswalks.*
71. *That the on-site parking, vehicular circulation and pedestrian circulation be subject to further review by the City Traffic Engineer, and that no parking be allowed on the entrance drive within 16 feet of the property line. [COA UP3095]*
72. *That all improvements be constructed as required by ordinance and the Public Works Department.*
73. *That 13 parking permits shall be purchased from the City on an annual basis. Said parking permits shall be distributed to the employees of the restaurant for their use in parking in the municipal lot. [COA UP3095]*
74. *That employees of the restaurant shall be required to park in the municipal parking lot. [COA UP3095]*
75. *The signage for take-out parking in the ADA access pathway shall be removed.*
76. *That the intersection of streets and drives be designed to provide site distance for a speed of 35 miles per hour. Landscaping, walls and other obstructions shall be considered in the sight distance requirements. Landscaping within the sight distance line shall not exceed twenty-four inches in height. The sight distance requirement may be approximately modified at non-critical locations, subject to the approval of the Traffic Engineer. [COA UP3095]*
77. *That the applicant's leasehold interest to a 19-foot by 19-foot -45 degree corner cutoff at the northwesterly corner of Riverside Avenue and West Coast Highway and to 18 feet of right-of-way be dedicated to the public for street and highway purposes along the West coast Highway frontage, and that the building be relocated towards the westerly side property line so as to provide for the required corner cutoff. [COA UP3095]*
78. *That prior to obtaining building permits, the Applicant shall agree he will not request adjustments to rental fees based on the City's acquisition of the 18-foot wide strip and corner cutoff, reducing the size of the parcel. [COA UP3095]*
79. *That the future street area be landscaped and maintained by the Applicant until such time as it is needed for street purposes. [COA UP3095]*
80. *That all vehicular access rights to West Coast Highway be released and relinquished to the City of Newport Beach prior to issuance of any building permits. [COA UP3095]*
81. *That street and utility improvements be shown on standard improvement plans prepared by a licensed civil engineer. [COA UP3095]*

82. *That the Applicant acknowledges and agrees that the proposed development will not increase the need for on-street parking along West coast Highway and therefore, the Applicant agrees not to claim any economic loss for the removal of parking for the restriping or widening of West Coast Highway on the grounds of loss of on-street parking. [COA UP3095]*

Attachment No. PC 2

Analysis of Compliance with
Conditions of Approval

2800 West Coast Highway

Analysis of Compliance with Conditions of Approval

Note: The following conditions of approval are highlighted on the basis that they directly relate to the operations of the establishment.

	Condition	Comments
1	<i>Use Permit No. UP2010-015 shall be subject to a one year review before the Planning Commission after the date of approval.</i>	The Planning Division allowed the applicant additional time after the one-year review period to satisfy the outstanding conditions of approval.
2	<i>Prior to issuance of building permits, the applicant shall obtain a determination, in writing, from the Coastal Commission that the project as proposed is not development under the California Coastal Act or obtain Coastal Commission approval of the parcel map.</i>	Requirement for Coastal Commission review waived by the Community Development Director on the basis that the for the change of intensity to the existing use was not significant.
3	<i>There shall be no live entertainment or dancing allowed on the premises without first obtaining a Live Entertainment permit from the City. Prior to the issuance of building permits for the change of occupancy, the applicant shall obtain a Live Entertainment Permit from the Revenue Department.</i>	The applicant obtained a permit from the Revenue Division to conduct live entertainment and dance on August 15, 2011.
8	<i>The area provided for live entertainment and dancing shall not exceed 400 square feet.</i>	The applicant revised Plan Check No. 0316-2010 on June 5, 2012 to account for the change of occupancy associated with the dance floor area.
10	<i>A comprehensive security plan for the permitted uses shall be submitted to the Newport Beach Police Department for review and approval.</i>	The applicant submitted a security plan to the City of Newport Beach on March 5, 2012.
17	<i>No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.</i>	The Planning Division was notified by a member of the public that the applicant had posted signs advertising happy hour specials beyond the hours permitted. The Planning Division notified the applicant and the signage was removed and the applicant indicated the signage was misworded. Happy hour was not offered outside permitted hours.

52	<i>Strict adherence to maximum occupancy limits is required. A building permit is required to allow the change in occupancy. Plan Check No. 0316-2010 for tenant improvements to the subject property shall be revised to reflect the new calculated occupant load to accommodate live entertainment. The plans shall calculate the occupant load, including all occupied areas, patio, and dance floor based on the CBC Chapter 4. The plans shall verify that the existing number of plumbing fixtures complies with Table CBC 4-1 (Restaurants). All plans and work must comply with the California Building Code.</i>	The applicant revised Plan Check No. 0316-2010 on June 5, 2012 to account for the change of occupancy associated with the dance floor area.
54	<i>Approval from the Orange County Health Department is required prior to the issuance of a building permit.</i>	Requirement waived by the Building Division because change in occupancy on building permit plans did not require OC Health Department review.
64	<i>As a condition precedent to the Applicant conducting operations under Use Permit No. UP2010-015(PA2010-082), the Applicant shall obtain the Planning Director's approval of a written agreement between the Applicant (as lessee) and the owner of the property located at 2750 West Coast Highway (as lessors) providing parking for eighteen (18) cars from 6:00 p.m. to closing. If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment and dancing rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property.</i>	The applicant provided a letter from the branch manager of Wells Fargo indicating that their parking was available for the subject business after 6:00 p.m.
67	<i>Valet parking shall be required on-site during operating hours from 11:00 a.m. to 2:00 a.m. as long as the tandem configuration of parking (parallel parking in the drive aisle) remains on-site.</i>	The applicant demonstrated the ability to offer valet service when parking demand was high. The Community Development Director determined that requiring valet nightly was not necessary because demand is not high enough.
71	<i>That the on-site parking, vehicular circulation and pedestrian circulation be subject to further review by the City Traffic Engineer, and that no parking be allowed on the entrance drive within 16 feet of the property line. [COA UP3095]</i>	The Public Works Department has not noted any significant traffic circulation issues since Use Permit No. UP2010-015 (PA2010-082) was approved in November of 2010.

73	<i>That 13 parking permits shall be purchased from the City on an annual basis. Said parking permits shall be distributed to the employees of the restaurant for their use in parking in the municipal lot. [COA UP3095]</i>	Parking passes have been purchased for 2012.
74	<i>That employees of the restaurant shall be required to park in the municipal parking lot. [COA UP3095]</i>	Parking passes have been purchased for 2012 for employees to utilize the off-site municipal parking lot.
75	<i>The signage for take-out parking in the ADA access pathway shall be removed.</i>	Signage has been removed.

Attachment No. PC 3

Police Department Review

**City of Newport Beach
Police Department**

M e m o r a n d u m

July 5th, 2012

TO: Makana Nova, Assistant Planner

FROM: Detective Mario Montero

SUBJECT: One Year Review – China Palace, 2800 W. Coast Highway. Use Permit 2010-015.

On November 23rd, 2010, the Newport Beach City Council upheld and affirmed the Planning Commission's approval of Use Permit 2010-015 for China Palace by Resolution #2010-131. The use permit allowed live entertainment and dancing inside the existing eating and drinking establishment between the hours of 6:00 pm and 1:00 am. The resolution did not permit the establishment to operate as "a bar, tavern, cocktail lounge, or nightclub as defined by the Municipal Code," without further approval from the Planning Commission. Per your request, our office has reviewed the activity at China Palace. The time period from December 1st, 2010 through June 1st, 2012 reflects the period of time since the approval of the permit.

There were a total of 11 calls for service to the Police Department at China Palace in the 20 month period. The calls were evaluated as follows:

Fights/Assaults	3	Subjects fighting and/or reported assaults
Noise/Disturbances	0	Loud music and general noise
Use Permit Violations	2	Minor on the premises, other violations.
Miscellaneous Calls	5	Keep the Peace, Lost property, Misc

The calls ranged from simple calls for assistance to felonious assault/battery. There were a total of 3 Department Report numbers assigned by officers. One report was for lost property on 12/1/2010. The second report was for a misdemeanor battery on 12/3/2010. The third report was for the arrests of two suspects involved in an altercation, one of which was arrested for a felony, on 12/17/2011.

It should be noted that both complaints of Use Permit Violations in the establishment were classified as "Unfounded," since no violations were observed by officers dispatched to the location.

Based on our review, which included the noted calls for service, we have no objections to the operation as outlined in Use Permit 2010-015.

China Palace provided a typed and unverifiable statement to the Planning Department for sales receipts from March 1st, 2012 through May 31st, 2012. The statement showed the sale of food amounted to 61.84% of the total gross sales receipts while bar sales amounted to 38.16%. The owner requested that the actual dollar amount be kept confidential. The Police Department accepted this documentation for the purposes of this review only.

Condition 20 of Use Permit 2010-015 states:

"The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand."

The Police Department recommends an additional review be conducted, six-months from the date of this document, to verify the licensee is in full compliance with Condition 20. Failure to comply with this condition or any other conditions of approval set forth in Use Permit 2010-015 may result in further action by the Planning Department or the Police Department.

It should be noted that the purpose of this six-month review is solely for the purpose of verifying the establishment's compliance of Condition 20.

The Police Department would like to take this opportunity to thank China Palace in advance for their efforts in fulfilling the requirements of Condition 20.

If you have any questions, please contact Mario Montero at (949) 644-3706.



Mario Montero, ABC/Vice/Intelligence
Detective Division



Dale Johnson, Captain
Detective Division Commander

Attachment No. PC 4

Code Enforcement Review

PROJECT REVIEW REQUEST
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Division

Please Distribute to:

Police Dept./Vice & Intelligence
Code Enforcement (Cosylion)

Date: June 12, 2012

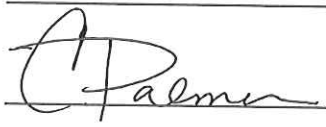
Please return PRR and Plans to Staff Planner
Makana Nova, Assistant Planner
(949) 644-3249, mnova@newportbeachca.gov

Applicant:	China Palace	Contact:	Yu-Ter Mau (Jack) 949 631-8031
Project Name	China Palace Use Permit		
Address:	2800 W Coast Highway		
(PA2010-082)	UP2010-015		

A one-year review will be conducted for Use Permit No. UP2010-015. The Use Permit was approved on November 23, 2010 to allow live entertainment and dancing within an existing full-service eating and drinking establishment with on-sale alcohol service. (Police: Please provide information related to calls for service, complaints, investigations, and sales receipts information) (Code Enforcement: Please provide information related to complaints, citations, and violations)

REPORT REQUESTED BY: June 26, 2012

PLANNING COMMISSION HEARING DATE: July 19, 2012

<u>Check all that apply:</u> <input checked="" type="checkbox"/> No comments on the project as presented. <input type="checkbox"/> Application of Standard Code requirements are not expected to alter the project design. <input type="checkbox"/> Recommended conditions of approval are attached. <input type="checkbox"/> Application of Standard Code requirements or the attached conditions of approval will substantially impact or alter the design of the project. <input type="checkbox"/> I contacted the applicant on _____ <input type="checkbox"/> To schedule an appt. for Code review <input type="checkbox"/> To discuss the following (see notes)	<u>Notes:</u> <u>CODE ENFORCEMENT HAS NOT RECEIVED ANY COMPLAINTS REGARDING THE SUBJECT PROPERTY AND UP2010-015. A NOTICE OF VIOLATION REGARDING BANNERS, WAS SENT TO THE PROPERTY OWNER (OFFICER INITIATED - NO COMPLAINTS).</u>  Signature 3220 6/25/2012 Ext. Date Please indicate the approximate time spent on reviewing this project: 10 minutes
--	--



NOTICE OF VIOLATION

CITY OF NEWPORT BEACH
Community Development Department
Code Enforcement Division

3300 Newport Blvd.
Newport Beach, CA 92663
949-644-3215

Number: 12011-1207
Date: 12/01/2011

Name of Owner or Business: COAST POINT RESTAURANT

2800 COAST HWY W
NEWPORT BEACH, CA, 92663

An inspection of premises located at 2800 W COAST HWY NB in the City of Newport Beach, on 12/01/2011 revealed a violation(s) of the Newport Beach Municipal code.

WARNING ONLY
PREVIOUSLY ADVISED
FINAL WARNING

☒
☐
☒

THIS VIOLATION(S) WAS ORIGINALLY BROUGHT TO YOUR ATTENTION ON _____, AND YOU HAVE NOT CORRECTED OR RESOLVED THE VIOLATION(S)

NEWPORT BEACH MUNICIPAL CODE SECTION(S) / DESCRIPTIONS OF VIOLATION(S)

- 1: MC 20.42.090 STANDARDS FOR TEMPORARY SIGNS
- 2: NBMC 20.42.100 SIGN PERMIT REQUIRED

CORRECTION(S) REQUIRED -

1. PLEASE REMOVE ANY UNPERMITTED BANNERS.
2. OBTAIN A PERMIT FOR ANY FUTURE BANNERS.

THANK YOU.

THIS VIOLATION MUST BE CORRECTED ON OR BEFORE 12/04/11. If the violation is not corrected by the date specified, an ADMINISTRATIVE CITATION may be issued and penalties will begin to accrue (\$100.00, \$200.00, AND \$500.00) each day. Additional enforcement actions such as administrative abatement, civil penalties, prosecution and/or civil injunction may be utilized to correct this violation(s). A REINSPECTION WILL BE MADE ON OR AFTER THE CORRECTION DATE. IF THE CORRECTION(S) IS NOT COMPLETED AN ADMINISTRATIVE CITATION MAY BE ISSUED AND FEES WILL BEGIN TO ACCRUE.

PRINT NAME OF OFFICER

A. Kendall

SIGNATURE OF OFFICER

A handwritten signature in black ink, appearing to be "A. Kendall", written over a horizontal line.

VIOLATION(S) CLEARED AS OF _____

(DATE INSPECTED)

OFFICER ID # 2707

Attachment No. PC 5

Planning Commission Minutes

<p>applicant proposes a winery (wine production with accessory retail sales and accessory wine tasting).</p> <p>Fern Nueno, Assistant Planner, gave a brief overview of the staff report, including a minor change to the project description in the Study Plan.</p> <p>Cora Newman of Government Solutions, representing the applicant and Gus Defalco, applicant made comments and answered questions posed by the Commission. Detective Bryan Moore, Newport Beach Police Department made further comments and was available for questions.</p> <p>Public comment was opened.</p> <p>No comments were made.</p> <p>Public comment was closed.</p> <p>Motion made by Commissioner Toerge, seconded by Commissioner Unsworth, to adopt resolution, as follows; recommend City Council approval of Code Amendment No. CA2010-005.</p> <p>Motion carried with the following vote:</p>					
<table> <tr> <td>Ayes:</td><td>Eaton, Unsworth, Hawkins, McDaniel, Ameri, and Toerge</td></tr> <tr> <td>Noes:</td><td>None</td></tr> </table>	Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, and Toerge	Noes:	None	
Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, and Toerge				
Noes:	None				
<p>SUBJECT: China Palace Use Permit - (PA2010-082) 2800 West Coast Highway</p> <p>The application is for a use permit to allow live entertainment and dancing within an existing full-service eating and drinking establishment with on-sale alcohol service. Required off-street parking for the project will be provided at an off-site parking lot located at 2750 West Coast Highway.</p> <p>Makana Nova, Assistant Planner, gave a brief overview of the staff report with a PowerPoint presentation.</p> <p>Scott Peotter, representing the applicant, presented an aerial map depicting restaurants surrounding China Palace to the Planning Commission and staff and made comments. Detective Bryan Moore, Newport Beach Police Department made comments.</p> <p>Public comment was opened.</p> <p>Comments were given by the following:</p> <p>Michael Pells, 308 Avenida Carlos Howard Larsen, 407 Kings Place Craig Hudson, Newport Beach resident Dr. Cassidy, Cliff Drive resident Kathy Seymour, Kings Road resident Mr. West, Newport Beach resident</p>	<p>ITEM NO. 7 PA2010-082</p> <p>Approved</p>				

Public comment was closed.

Motion made by Commissioner Toerge, seconded by Commissioner Eaton, to adopt a resolution, after debate, to approve Use Permit No. UP2010-015 subject to the findings and conditions of modified resolution provided by the applicant's representative as follows:

- Page 3 of 13, Section B-2 –Strike the last portion of last sentence: “and to limit the hours of operation so that the establishment closes 12:00 midnight.
- Page 4 of 13, Section C-1 – Incorporate all changes: Replace the word proposed with “*existing*” and add the word “*proposed*” before live entertainment
- Page 4 of 13, Section C-2 – Modify section to read as follows: “The hours of operation have been conditioned to limit live entertainment at the establishment from 6:00 p.m. to 1:00 a.m. The hours of operation for the establishment will be reduced to 7:00 a.m. to 2:00 a.m., daily.”
- Page 6 of 13, Exhibit “A”, Condition No. 4 – Modify condition to read: “The hours of operation for the eating and drinking establishment indoors shall be limited from 7:00 a.m.to 2:00 a.m., daily. The hours of operation for the outdoor dining area shall be limited from 7:00 a.m. to 12:00 midnight.”
- Condition No. 5 – Modify condition to read: “Live entertainment shall be permitted at the subject property from 6:00 p.m. to 1:00 a.m.”
- Condition No. 6 – Incorporate all changes: “Dancing is allowed for the hours of live entertainment.”
- Condition No. 7 - Incorporate all changes: “The area provided for live entertainment and dancing shall not exceed 400 square feet.”
- Condition No. 12 – Incorporate all changes: “Live entertainment shall be as defined in the Municipal Code.”
- Condition No. 25 – Incorporate all changes: add the words “per current code” after the word below in the last sentence.
- Condition No. 36 – Incorporate all changes: Change 8:00 a.m. to “7:00 a.m.”
- Condition No. 61 – Incorporate all changes: Change 12:00 midnight to “closing”.
- Condition No. 62 – Modify condition to require a total of “30 parking spaces” and incorporate all other changes.
- Condition No. 64 – Incorporate all changes: Replace application with “applicant”
- Add condition to read “When offering live entertainment, all doors and windows shall remain closed except for the normal ingress/egress doors. The doors and windows from the primary dining room to the outdoor dining room shall be closed at all times during the hours of live entertainment other than for server access.”
- Add condition to read “As a condition precedent to the Applicant conducting operations under Use Permit No. UP2010-015 (PA2010-082), the Applicant shall obtain the Planning Director's approval of a written agreement between the Applicant (as lessee) and the owner of the property located at 2750 West Coast Highway and 149 Riverside Avenue

<p>#B (as lessors) providing parking for thirty (30) cars and seven (7) cars, respectively. If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property."</p> <ul style="list-style-type: none"> • Add a condition to read "Use Permit No. UP2010-015 shall be subject to a one year review before the Planning Commission after the date of approval". <p>Scott Peotter stated that the applicant was not agreeable to the hours of live entertainment being limited to 1:00 a.m.</p> <p>Motion carried with the following vote:</p>		
Ayes:	Eaton, Unsworth, Hawkins, McDaniel, Ameri, and Toerge,	
Noes:	None	
* * *		
NEW BUSINESS		None
* * *		
STAFF AND COMMISSIONER ITEMS		
City Council Follow-up – meeting adjourned prior to consideration of this item		ITEM NO. 8
Planning Commission reports – meeting adjourned prior to consideration of this item		ITEM NO. 9
Announcements on matters that Commission members would like placed on a future agenda for discussion, action, or report. – meeting adjourned prior to consideration of this item.		ITEM NO. 10
Requests for excused absences – meeting adjourned prior to consideration of this item		ITEM NO. 11
<p>ADJOURNMENT: 11:30 p.m.</p> <p>MICHAEL TOERGE, SECRETARY CITY OF NEWPORT BEACH PLANNING COMMISSION</p>		

Attachment No. PC 6

City Council Minutes

David Waite, legal representative for Stoneridge Capitol Partners, discussed the importance of thoroughly evaluating project impacts.

Brian Adams expressed concern for public access within the property.

Tom Muller, Conexant Legal Representative, discussed the general plan.

Carol McDermott asked for support of the project and emphasized that the plan is conceptual.

Hearing no further testimony, Mayor Curry closed the public hearing.

In response to Council questions, City Attorney Hunt expressed support for the City proceeding with the project, noted that the ICDP is a concept upon which plans can be made from, and clarified that Council has the authority to change the plan after it is approved.

Council Member Selich expressed support for the proposed plan.

Council Member Webb suggested modifications to the ICDP in regards to bicycles, easements, and access from Birch Street.

Council Member Gardner expressed support for Council Member Webb's suggestions and felt that the ICDP is in tune with the General Plan.

Council Member Daigle believed that this project will revitalize the area.

Motion by Council Member Daigle, seconded by Council Member Gardner to adopt Resolution No. 2010-113 approving the proposed Airport Business Area Integrated Conceptual Development Plan as amended by Council Member Webb.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

24.

CHINA PALACE USE PERMIT (PA2010-082) - 2800 WEST COAST HIGHWAY - USE PERMIT NO. 2010-015. [100-2010]

Motion by Council Member Rosansky, seconded by Council Member Gardner to continue the item to November 9, 2010.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

City Manager Kiff reported that the applicant requested a 45 day continuance.

XVI. PUBLIC COMMENTS - None

XVII. CURRENT BUSINESS

25. IMPLEMENTATION OF THE RECOMMENDATIONS OF THE CITIZENS

XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Mayor Pro Tem Henn reported that the Finance Committee met on Monday and discussed the issuance of bonds in association with the Civic Center project. He also reported that the Economic Development Committee (EDC) heard a presentation from OPIS100 who conducts workshops to assist small businesses understand how to be more successful in this economic time. He announced that the first workshop will be held on January 22, 2011, at 8:30 a.m. in the OASIS meeting room.

XV. PUBLIC HEARINGS

Without objection, it was the consensus of Council to consider Items 10 and 11 together.

10. ADOPTION OF THE 2010 CALIFORNIA BUILDING CODES.

11. ADOPTION OF THE 2010 FIRE CODE AND THE 2009 INTERNATIONAL FIRE CODE. [100-2010]

Interim Community Development Director Fick noted that a presentation was provided during the study session. He recommended that Council introduce the ordinance to adopt the State mandated provisions of the Building and Fire Codes, include the local amendments that are non-substantive, and continue the prohibition of wood roofs in high fire hazard severity zones. He stated that staff plans to incorporate public input after conducting workshops.

Mayor Curry opened the public hearing. Hearing no testimony, he closed the public hearing.

Motion by Council Member Selich, seconded by Council Member Gardner to a) introduce Ordinance No. 2010-23 as amended, and pass to a second reading on November 23, 2010; b) adopt Resolution of Findings No. 2010-127 on November 23, 2010; and c) introduce Ordinance No. 2010-24 amending Title 9 of the NBMC to adopt the 2010 California Fire Code (Title 24, Part 2 of the California Code of Regulations) and local amendments, and the 2009 International Fire Code; and pass to second reading on November 23, 2010.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

Absent: Council Member Rosansky

12. CHINA PALACE USE PERMIT (PA2010-082) - 2800 WEST COAST HIGHWAY - USE PERMIT NO. 2010-015. [100-2010]

Council Member Rosansky requested that the item be continued.

Mayor Curry opened the public hearing. Hearing no public testimony, he closed the public hearing.

Motion by Council Member Rosansky, seconded by Council Member Webb to continue the item to the November 23, 2010 City Council meeting.

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle

XIII. ITEMS REMOVED FROM THE CONSENT CALENDAR - None

XIV. ORAL REPORTS FROM CITY COUNCIL ON COMMITTEE ACTIVITIES

Council Member Daigle reported that she was appointed to the Airport Lands Commission.

Council Member Gardner discussed the joint meeting of the Harbor Commission and Planning Commission, and the benefits of these commissions working together.

Mayor Pro Tem Henn reported on the Economic Development Committee (EDC) meeting and indicated that the City is included in Southern California Association of Government's (SCAG's) list of business-friendly cities that follow a statement of principles since Newport Beach adopted a fiscal sustainability plan. He reported that EDC also received a report relative to a "Shop Local" campaign.

XV. PUBLIC HEARINGS

- 16. NEWPORT BUSINESS PLAZA (PA2008-164) - 4699 JAMBOREE ROAD AND 5190 CAMPUS DRIVE - GENERAL PLAN AMENDMENT NO. GP2008-007 - PLANNED COMMUNITY DEVELOPMENT PLAN AMENDMENT NO. PD2009-001 - TENTATIVE PARCEL MAP NO. NP2010-006 (COUNTY TPM NO. 2010-101). [100-2010]**

City Manager Kiff requested that the item be continued to January 11, 2011, not December 14, 2010.

Mayor Curry opened the public hearing. Hearing no testimony, he closed the public hearing.

Motion by Council Member Rosansky, seconded by Council Member Webb to continue the item to the regular meeting of January 11, 2011, in order to provide adequate time to comprehensively review and identify the potential terms of a development agreement, and the applicant's request for a waiver of a development agreement.

- 17. CHINA PALACE USE PERMIT (PA2010-082) - 2800 WEST COAST HIGHWAY - USE PERMIT NO. 2010-015. [100-2010]**

Acting Planning Director Campbell utilized a PowerPoint presentation to discuss the project site, existing site plan, floor plan, parking issues, proposed hours of operation with and without entertainment, and proposed changes to the conditions of operation.

In response to Council questions, Acting Planning Director Campbell reported that the area is designated mixed-use but staff does not anticipate residential uses. He stated that C'est Si Bon Bakery is not open late, but people can be towed if they park there. He explained the reasons the Planning Commission recommended 1 parking space per 31 square feet of net public area (without valet) and staff recommended 1 parking space per 35. He also discussed the different recommendations relative to operating hours.

Council Member Rosansky expressed support for having 1 parking space for every 35 square feet of net public area and closing the patio at midnight when there is no entertainment or dancing. However, he recommended closing at 2:00 a.m. when the business is operating strictly as a restaurant.

Motion by Council Member Rosansky, seconded by Council Member Selich to adopt Resolution No. 2010-131 approving Use Permit No. UP2010-015, including revisions to the conditions of approval to require 1 parking space for every 35 square feet of net public area, allow valet parking until 2:00 a.m., and modify Condition No. 5 to allow the applicant to keep the patio open until 2:00 a.m. when there is no entertainment or dancing.

Mayor Curry opened the public hearing.

Scott Bauer, representing the applicant, requested that the patio doors remain open even when there is entertainment or dancing. He noted that live entertainment will stop at 1:00 a.m.

Hearing no further testimony, Mayor Curry closed the public hearing.

Council Member Gardner expressed concerns relative to enforcement since entertainment and dancing may or may not occur nightly. Mayor Pro Tem Henn agreed and recommended that the site close at midnight. He noted the problems that occur on the Peninsula due to mixed-uses and facilities being open late.

Substitute motion by Council Member Webb, seconded by Council Member Gardner to adopt Resolution No. 2010-131 approving Use Permit No. UP2010-015, including revisions to the conditions of approval to require 1 parking space for every 35 square feet of net public area, allow valet parking until 2:00 a.m., and modify Condition No. 5 to only allow the applicant to keep the patio open until midnight.

The substitute motion failed by the following roll call vote:

Ayes: Mayor Pro Tem Henn, Council Member Webb, Council Member Gardner

Noes: Council Member Selich, Council Member Rosansky, Mayor Curry, Council Member Daigle

The motion carried by the following roll call vote:

Ayes: Council Member Selich, Council Member Rosansky, Mayor Curry, Council Member Daigle

Noes: Mayor Pro Tem Henn, Council Member Webb, Council Member Gardner

~~18. AGREEMENT TO PROVIDE SANITARY SEWER SERVICES TO CANYON FAIRWAY COMMUNITY. [100-2010]~~

~~City Manager Kiff provided the staff report. In compliance with California Constitution Article XIIIId (Proposition 218), City Clerk Brown reported that no protests were received.~~

~~**Mayor Curry opened the public hearing. Hearing no testimony, he closed the public hearing.**~~

~~**Motion by Council Member Webb, seconded by Council Member Rosansky** to direct staff to access sewer fees for the Canyon Fairway Community Association per Title 14 of the City's Municipal Code since there was an absence of a majority protest.~~

~~The motion carried by the following roll call vote:~~

~~Ayes: Council Member Selich, Council Member Rosansky, Mayor Pro Tem Henn, Mayor Curry, Council Member Webb, Council Member Gardner, Council Member Daigle~~

Attachment No. PC 7

Parking Management Plan

Parking Management Program
2800 West Coast Highway
China Palace
November 23, 2010

The following Parking Management Program for the eating and drinking establishment, located at 2800 West Coast Highway, is provided per Section 20.66.100 (Modification or Waiver of Off-Street Parking Requirements) of the Zoning Code. The Parking Management Program will employ the following management mechanisms to mitigate impacts associated with a modification of the off-street parking spaces as required by Chapter 20.66 of the Zoning Code:

Off-Site Parking

- 30 off-site parking spaces shall be provided at 2750 West Coast Highway. The use of the off-site parking spaces will be off-set by the business that utilizes them (the bank at 2750 West Coast Highway and the subject establishment, China Palace, located at 2800 West Coast Highway).
- The property owner of 2750 West Coast Highway may terminate this arrangement at any time. The establishment's use of these spaces shall no longer be valid if the tenant at 2750 West Coast Highway expands their operation hours later than 6:00 p.m.
- If at any time the bank, located at 2750 West Coast Highway, extends its hours of operation beyond 6:00 p.m., or if Applicant's possession of the parking lot is terminated, or if the agreement is terminated for any reason, then the live entertainment and dancing rights of the Applicant to operate under the above-referenced Use Permit shall immediately terminate until replacement off-site parking, acceptable to the Planning Director, is obtained for the subject property.
- The applicant shall provide signage at 2750 West Coast Highway indicating that overnight parking is not permitted at the off-site parking lot and vehicles will be subject to tow if left overnight.

Municipal Parking Spaces

- 13 employee parking spaces are waived by Variance No. VA1112 and provided off-site at the Avon municipal parking lot at 200 Tustin Avenue. The applicant shall pay in-lieu fees to the City for these spaces on an annual basis.

On-Site Parking and Valet Service

- Valet service is required on-site during operating hours from 11:00 a.m. to 2:00 a.m. to ensure that all 30 parking spaces provided on-site are accessible for customers of the eating and drinking establishment.
- Valet parking is not permitted at the off-site location.
- Valet service shall not impact the public right-of-way. Vehicle staging, drop-off, and pick-up shall occur on-site only.

- The applicant shall discourage patrons from crossing Riverside Avenue at mid-block locations and shall direct patrons to utilize nearby crosswalks.
- The applicant shall provide signage on-site indicating the location of additional parking available at the off-site parking lot.
- The signage for take-out service parking shall be removed from the ADA access pathway near the entrance to the establishment.

Attachment No. PC 8

Project Plans

EXISTING 30 PARKING SPACES ON SITE @ CHINA PALACE PER UP 1995

PROPOSED PATIO

EXISTING CHINA PALACE RESTAURANT

13 OFF-SITE PARKING PERMIT SPACES IN THE MARQUERS HILL MUNICIPAL (AVONHILL) PARKING LOT PER UP 2013

PROPOSED LOCATION OF OFF-SITE PARKING LOT 30 SPACES 2750 W. PACIFIC COAST HWY



BUILDING DATA	
NO. OF STORIES	1
TYPE OF CONSTRUCTION	WOOD
OCCUPANT GROUP	RESTAURANT
FIRE PROTECTION	NO
PRELIMINARY	NO

AREA SUMMARY FOR CHINA PALACE RESTAURANT

LOT AREA:	15,769 S.F.
EXISTING BUILDING:	5,317 S.F.
APPROVED NET PUBLIC AREA:	2,129 S.F.
EXISTING LANDSCAPING:	2,645 S.F.
EXISTING RAISED PLANTERS:	330 S.F.
EXISTING PAVING:	5,454 S.F. = 60.4%
BUILDING:	5,260 S.F. (5,317 - 57)
PROPOSED INTERIOR DINING AREA (NET PUBLIC AREA):	2,042 S.F.
PROPOSED OUTDOOR PATIO:	619 S.F. (87 S.F. + 532 S.F. ACCESSORY OUTDOOR DINING)
PROPOSED LANDSCAPING:	1,750 S.F.
PROPOSED RAISED PLANTER / FIRE FEATURE:	458 S.F. 1,750 S.F. + 458 S.F. = 132%
1. ALL WORK TO COMPLY WITH 2007 CALIFORNIA BUILDING CODES AND TITLE 24 2009 CALIFORNIA ENERGY EFFICIENCY STANDARDS	
2. MAXIMUM OCCUPANT SHALL BE POSTED IN EACH DINING & WAITING AREA PER CBC 1003.1	
3. OCCUPANT LOAD PER TABLE 1003.1.1	
NET PUBLIC AREA (INTERIOR DINING AREA WITH NON-FIXED SEATING):	2,042 S.F. / 15 = 140
PATIO AREA (OUTDOOR DINING AREA WITH NON-FIXED SEATING):	619 S.F. / 15 = 42
NON-PUBLIC AREAS:	458 S.F. / 100 = 5
RESTROOMS:	458 S.F. / 6 = 8
KITCHEN:	528 S.F. / 200 = 3
STORAGE:	1,364 S.F. / 200 = 7
TOTAL OCCUPANT LOAD:	197
4. TWO EXITS REQUIRED AND PROVIDED AT MAIN ENTRANCE AND 2nd EXIT (HY-CORNER) WITH PATIO HARDWARE PER CBC 1003.19	

PATIO AREA SUMMARY FOR CHINA PALACE RESTAURANT

2,129 S.F. NET PUBLIC AREA PER USE PERMIT NO. 2009-003

532 S.F. ALLOWED PATIO AREA PER 25% OF ORIGINAL N.P.A. [1]
+ 87 S.F. (3) 29 S.F. BOOTH PROJECTIONS REMOVED FROM INTERIOR N.P.A. [2]
619 S.F. PATIO AREA ALLOWED

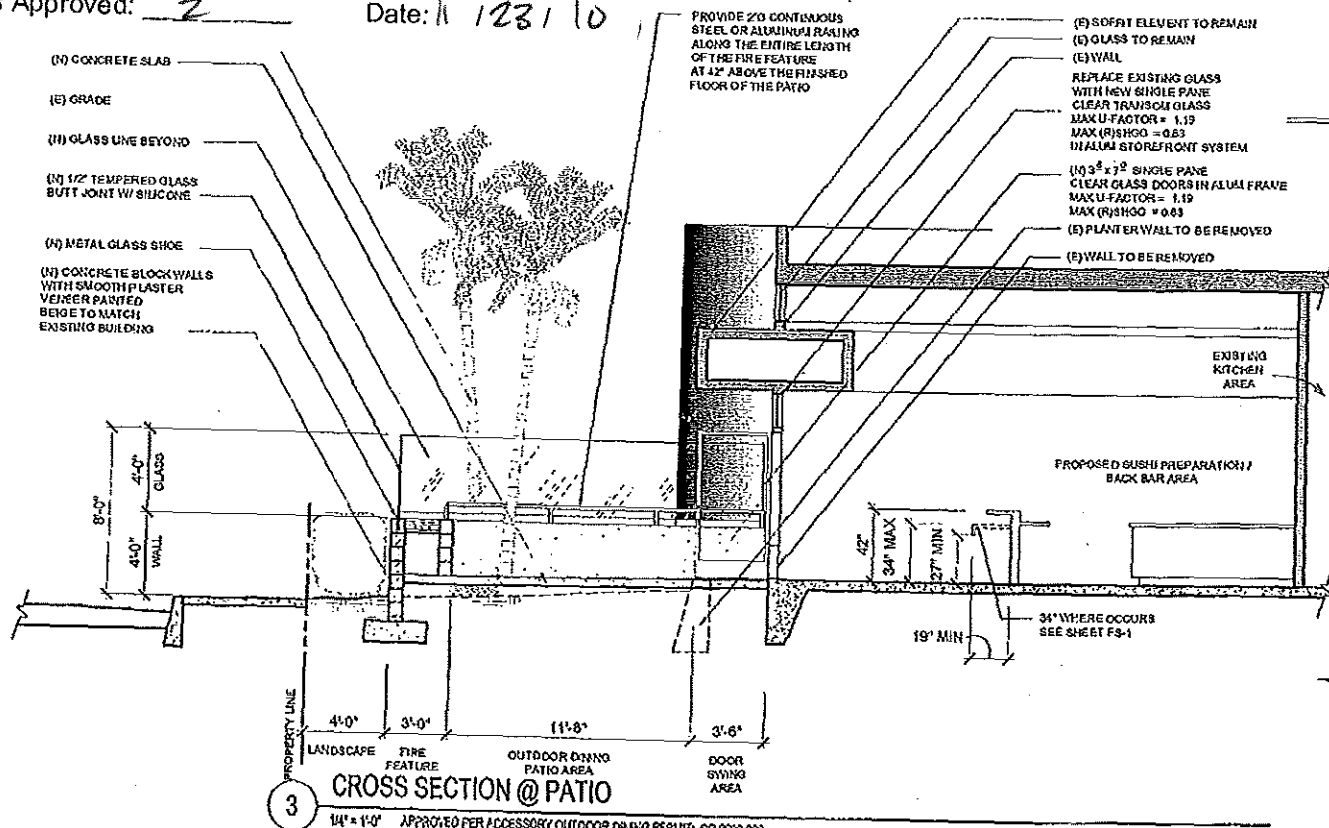
[1] NOTE: ACCESSORY OUTDOOR DINING PERMIT: CO 2009-003
APPROVED 1/7/2010

[2] NOTE: EXISTING NET PUBLIC AREA OF 87 S.F.
(3 - 29 S.F. BOOTH PROJECTIONS)
TRANSFERRED TO THE ALLOWED PATIO AREA

PROVIDE 2" CONTINUOUS STEEL OR ALUMINUM RAILING ALONG THE ENTIRE LENGTH OF THE FIRE FEATURE AT 42" ABOVE THE FINISHED FLOOR OF THE PATIO

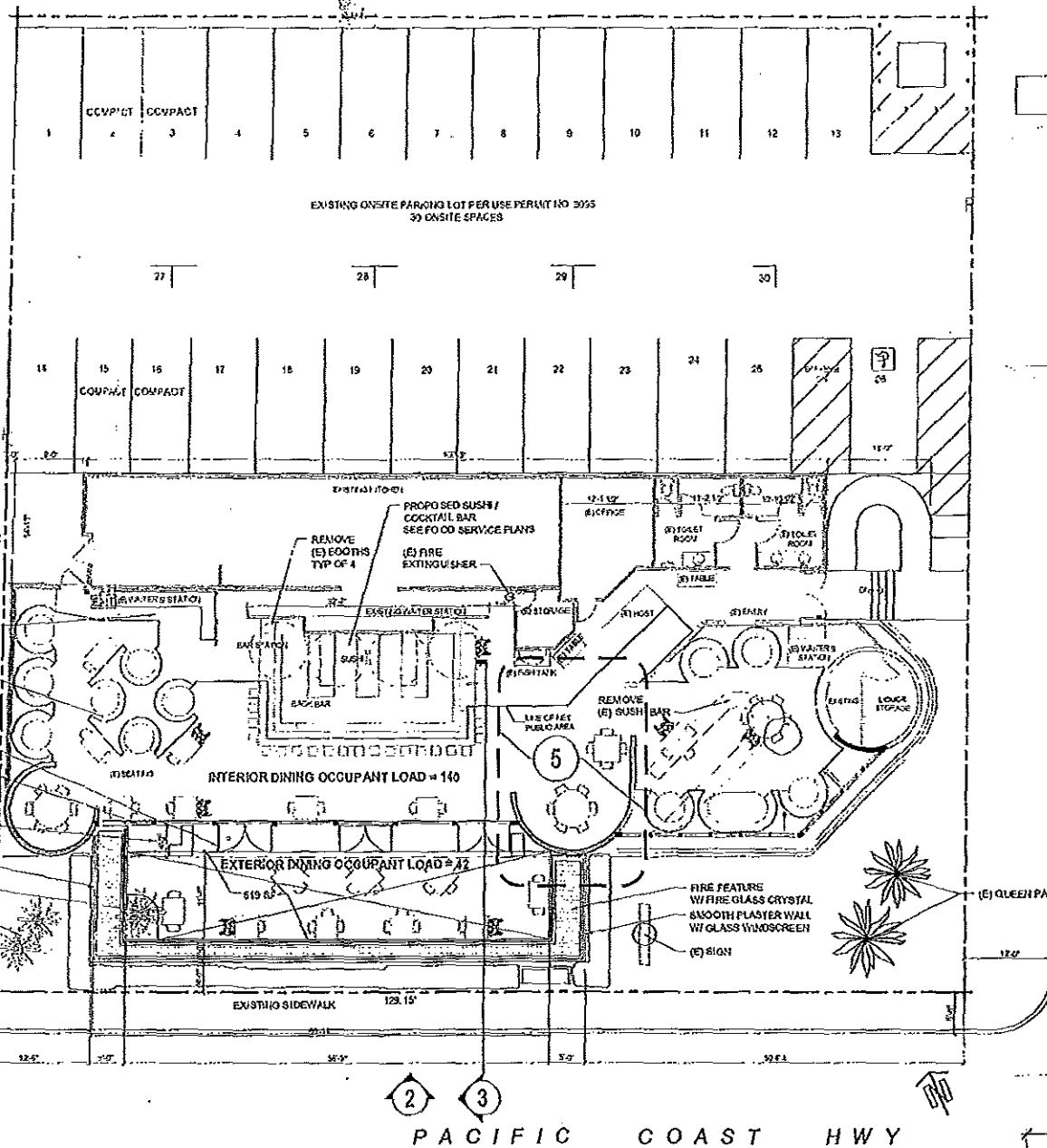
- (E) SOFT FLOOR TO REMAIN
- (E) GLASS TO REMAIN
- (E) WALL
- REPLACE EXISTING GLASS WITH NEW SINGLE PANE CLEAR TRANSPARENT GLASS MAX U-FACTOR = 1.19 MAX (R)SHGO = 0.63 METAL STOREFRONT SYSTEM
- (1) 3' x 3' SINGLE PANE CLEAR GLASS DOORS IN ALUM FRAME MAX U-FACTOR = 1.19 MAX (R)SHGO = 0.63
- (E) PLANTER WALL TO BE REMOVED
- (E) WALL TO BE REMOVED

- (N) CONCRETE SLAB
- (E) GRADE
- (U) GLASS ONE BEYOND
- (N) 1/2" TEMPERED GLASS BUTT JOINT W/ SILICONE
- (N) METAL GLASS SHOE
- (N) CONCRETE BLOCK WALLS WITH SMOOTH PLASTER VENEER PAINTED BEIGE TO MATCH EXISTING BUILDING



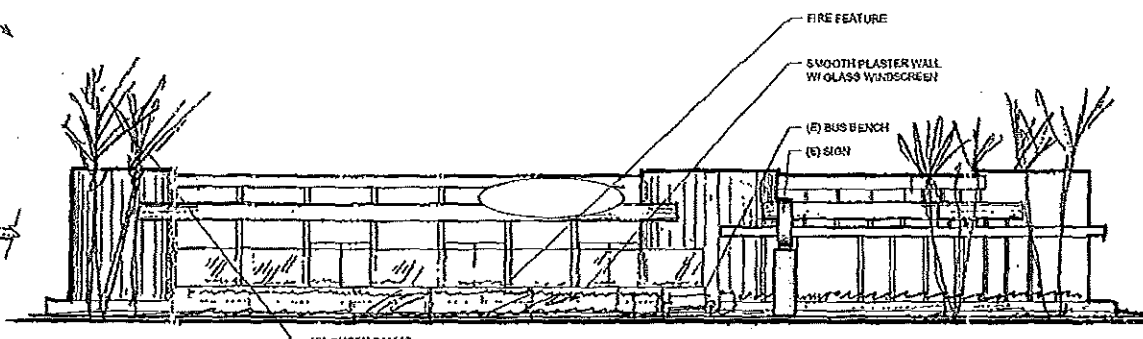
CROSS SECTION @ PATIO

1/4" = 1'-0" APPROVED PER ACCESSORY OUTDOOR DINING PERMIT: CO 2009-003 & MODIFICATION PERMIT: 2009-029



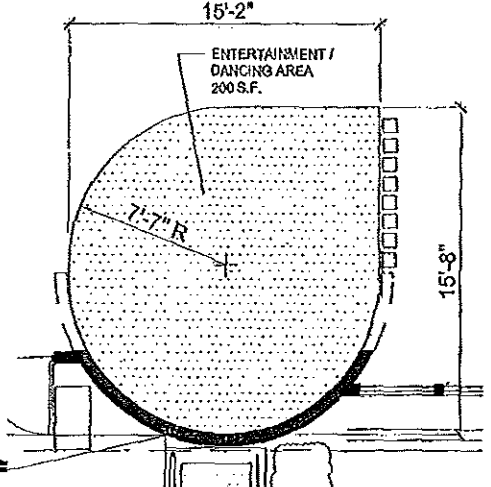
PLAN VIEW

1" = 10'-0"



WEST ELEVATION

1" = 10'-0"



ENTERTAINMENT AREA

SCALE: 1/4" = 1'-0"

BPS

Bryant Palmer Soto Inc.
ARCHITECTS/PLANNERS/ENGINEERS
2801 Pacific Coast Hwy., Suite 100, Newport Beach, CA 92660
Tel: (949) 222-2211 Fax: (949) 222-2212

5-25-10

China Palace Patio

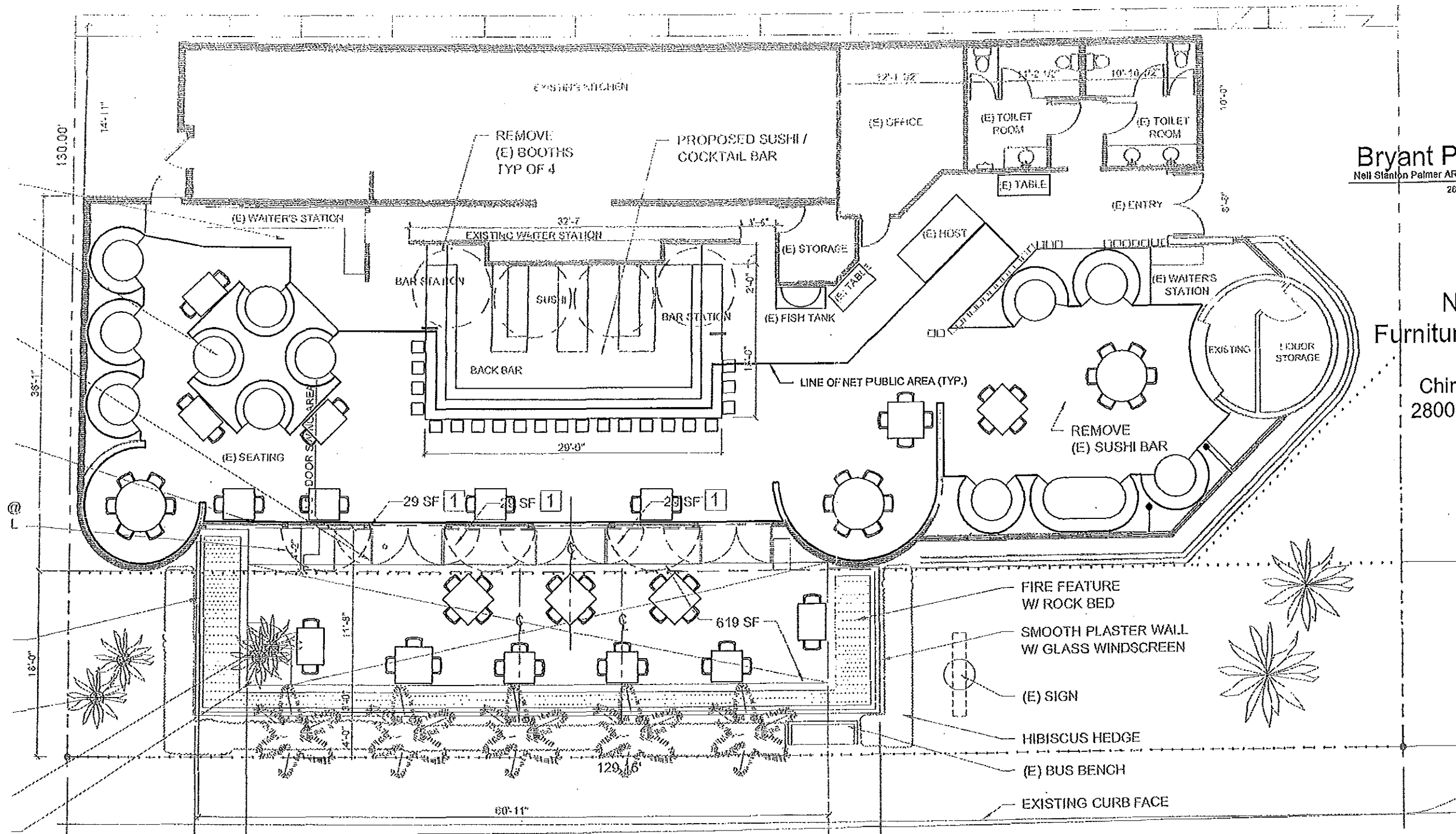
China Palace Restaurant
2800 W Pacific Coast Hwy.
Newport Beach

PA2010-082 for UP2010-015
2800 W Coast Highway
China Palace



China Palace
Net Public Area &
Furniture Layout Exhibit

China Palace Restaurant
2800 W Pacific Coast Hwy.
Newport Beach



2.129 S.F. NET PUBLIC AREA PER USE PERMIT NO. 3095

532 S.F. ALLOWED PATIO AREA PER 25% OF ORIGINAL N.P.A. [1]
+ 87 S.F. (3) x 29 S.F. BOOTH PROJECTIONS REMOVED FROM INTERIOR N.P.A. [2]
819 S.F. PATIO AREA ALLOWED

2 NOTE: EXISTING "NET PUBLIC AREA" OF 87 S.F.
(3 - 29 S.F. BOOTH PROJECTIONS)
TRANSFERRED TO THE ALLOWED PATIO AREA

Total Net Public Area: 2,042 S.F.

PROPOSED INTERIOR NET PUBLIC AREA & FURNITURE LAYOUT EXHIBIT
1 of 1

SCALE: 1" = 10'-0"

PA 2009-113

FOR ILLUSTRATION PURPOSES ONLY

ADDITIONAL
MATERIALS
RECEIVED

STAFF PRESENTATION



Planning Commission July 19, 2012

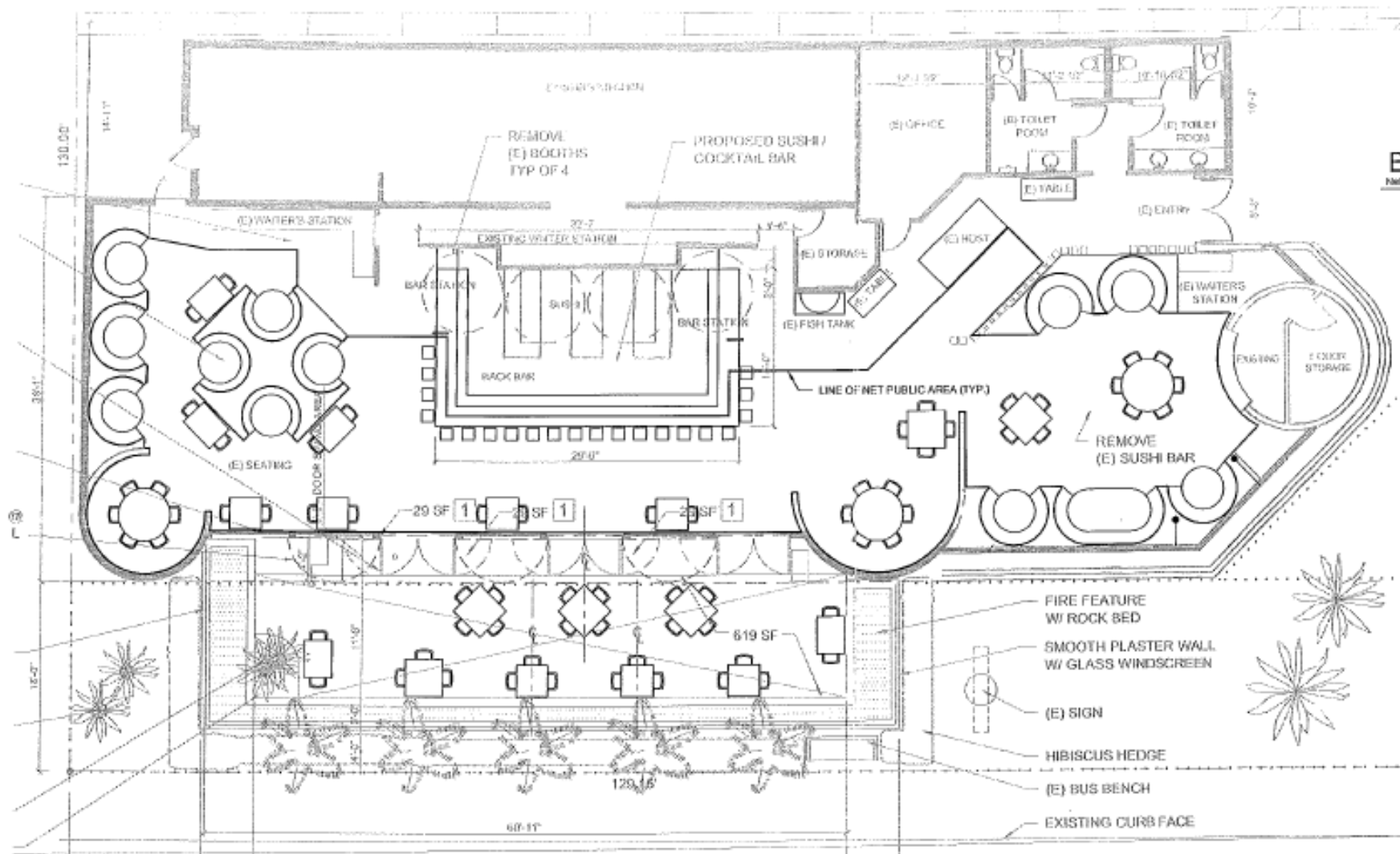
**Coast Point (China Palace)
Live Ent./Dancing Use Permit Review
Use Permit No. UP2010-015
(PA2010-082)**



Vicinity Map

- Approved by City Council November 23, 2011
- 400 sq ft of dance area
- Closing Hours:
 - Live Entertainment/Dancing-1:00 a.m.
 - Restaurant-2:00 a.m.
 - Outdoor patio-12:00 midnight with live entertainment/dancing

Use Permit No. UP2010-015



Floor Plan

- Provided a live entertainment permit August 15, 2011.
- Provided an off-site parking letter
- Demonstrated the ability to offer valet service when parking demand was high.
- Revised the occupancy calculations
- Provided a security plan March 5, 2012.
- Removed take-out signage
- Purchased 13 annual parking passes for 2012.

Actions Taken by Applicant

Police

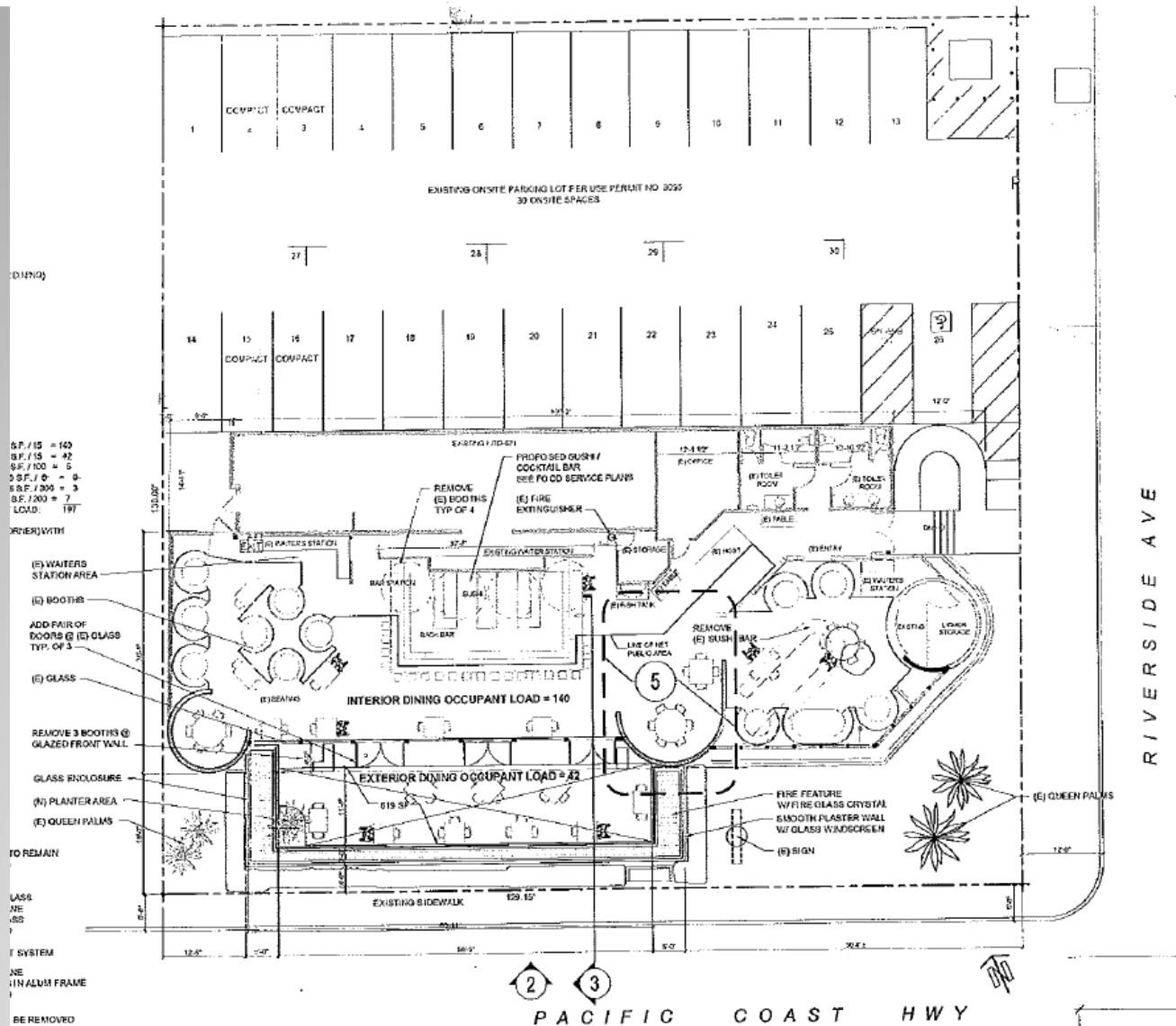
- 11 calls for service
- No objections to the operations as approved under the Use Permit
- PD to review sales receipts and in six months to ensure compliance in accordance with Condition No. 20

Code Enforcement

- One violation-temporary banners December, 2011
- Removed happy hour signage

PD/Code Enforcement

- End

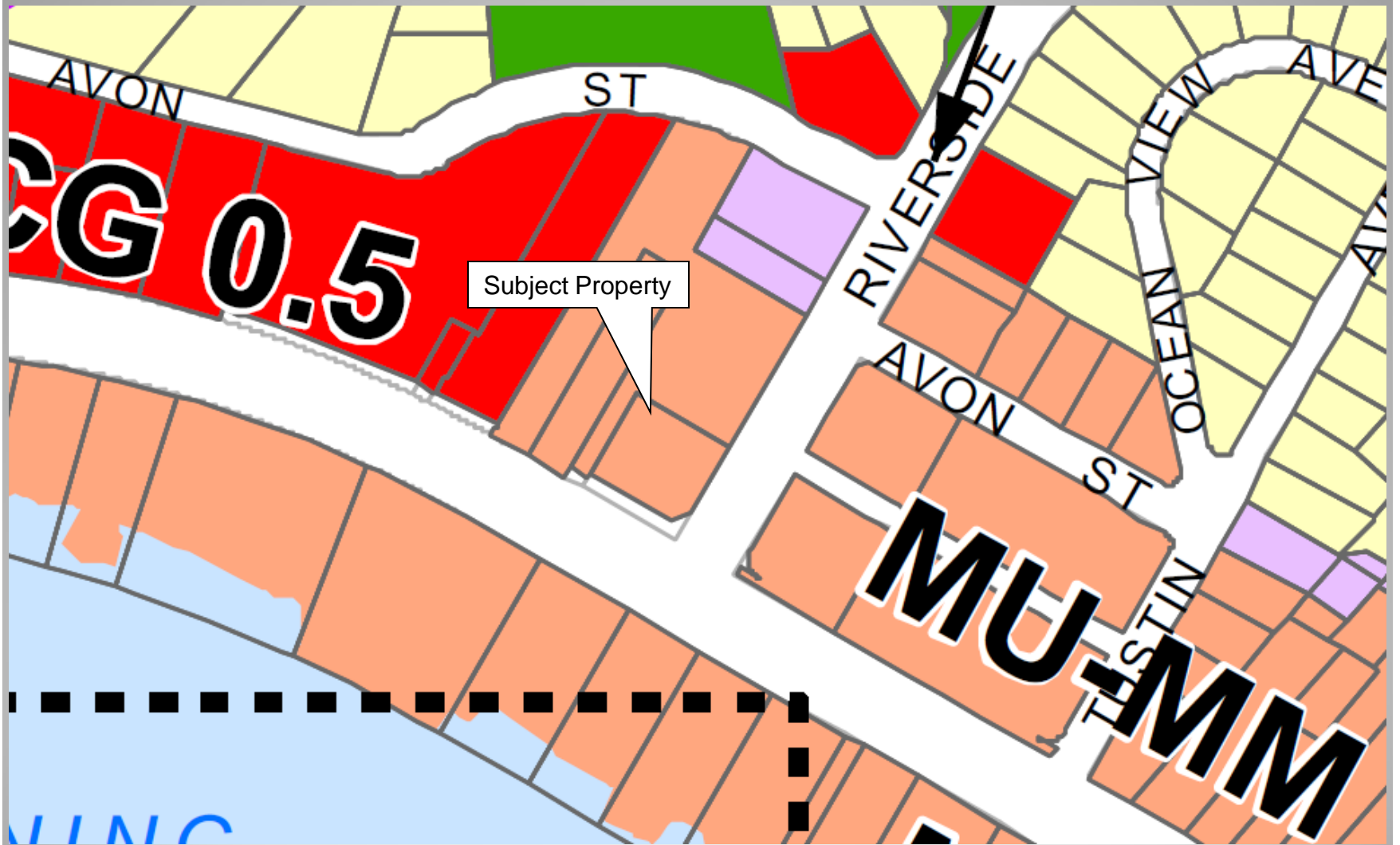


Existing Site Plan

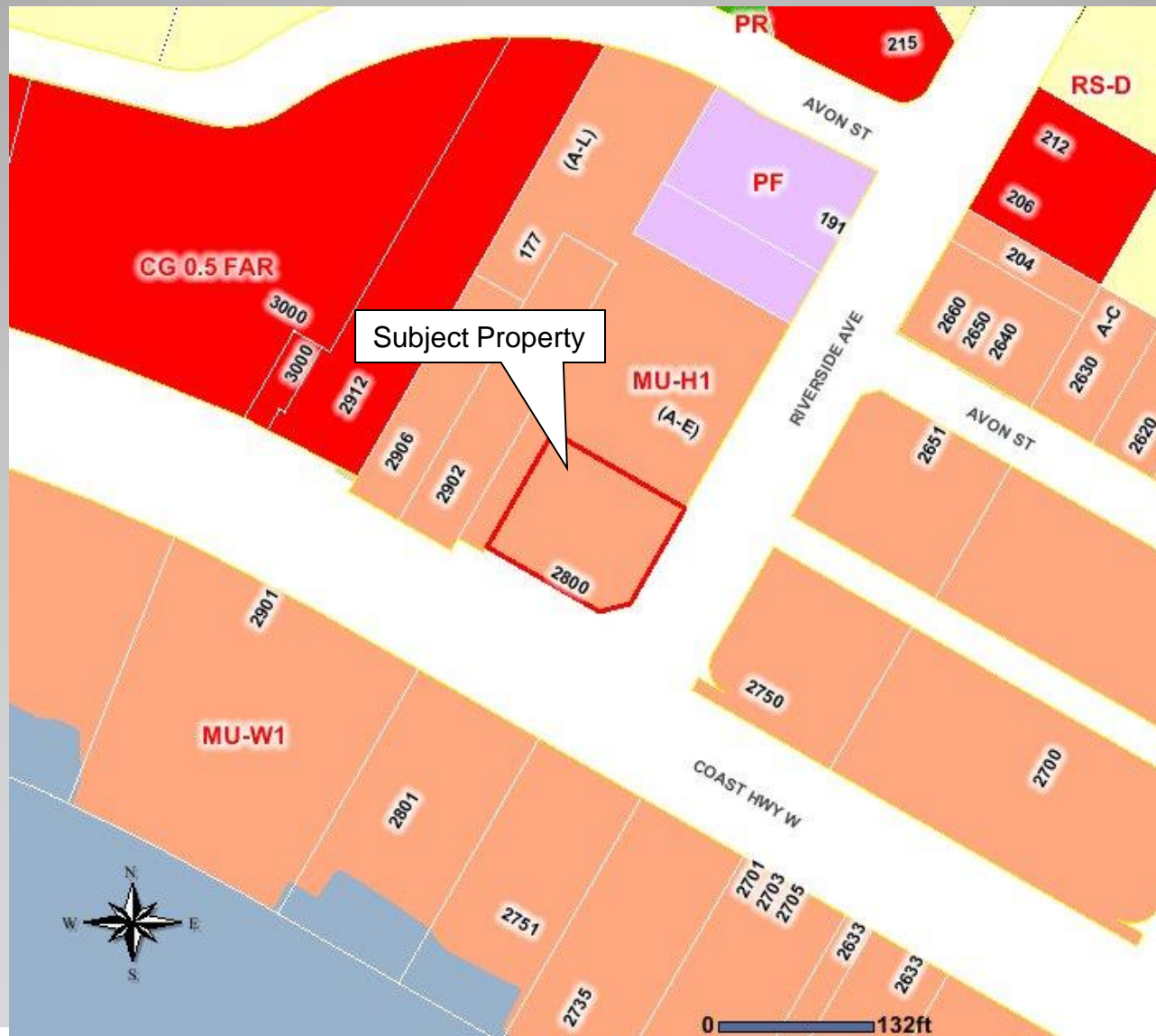


Restaurants in the Area

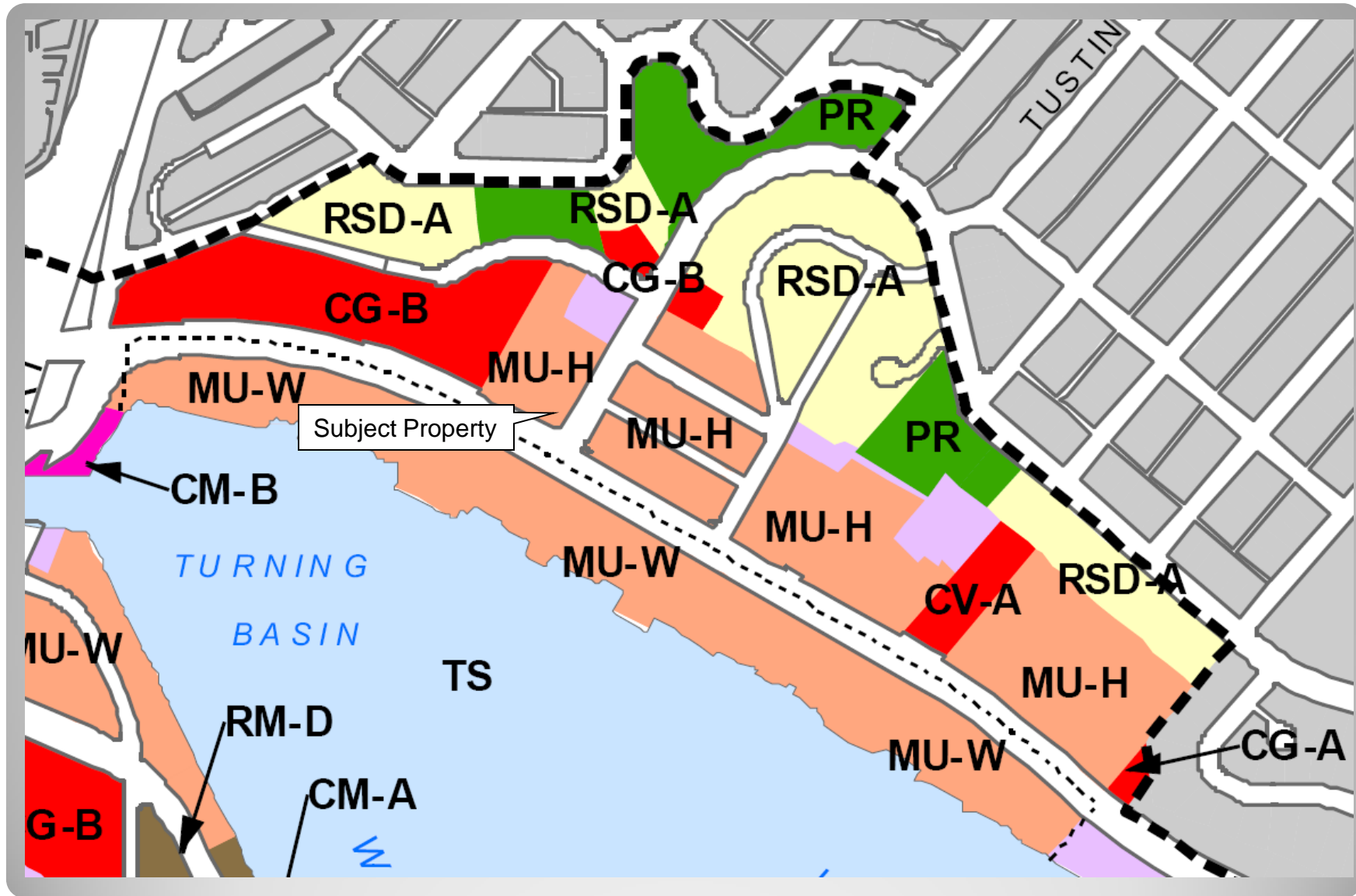




Zoning Map



Current General Plan Map



Current CLUP